

1 AN ACT regarding schools.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The School Code is amended by changing  
5 Section 34-85 as follows:

6 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

7 Sec. 34-85. Removal for cause; Notice and hearing;  
8 Suspension. No teacher employed by the board of education  
9 shall (after serving the probationary period specified in  
10 Section 34-84) be removed except for cause. No principal  
11 employed by the board of education shall be removed during  
12 the term of his or her performance contract except for cause,  
13 which may include but is not limited to the principal's  
14 repeated failure to implement the school improvement plan or  
15 to comply with the provisions of the Uniform Performance  
16 Contract, including additional criteria established by the  
17 Council for inclusion in the performance contract pursuant to  
18 Section 34-2.3.

19 The general superintendent must first approve written  
20 charges and specifications against the teacher or principal.  
21 A local school council may direct the general superintendent  
22 to approve written charges against its principal on behalf of  
23 the Council upon the vote of 7 members of the Council. The  
24 general superintendent must approve those charges within 45  
25 days or provide a written reason for not approving those  
26 charges. A written notice of those charges shall be served  
27 upon the teacher or principal within 10 days of the approval  
28 of the charges. If the teacher or principal cannot be found  
29 upon diligent inquiry, such charges may be served upon him by  
30 mailing a copy thereof in a sealed envelope by prepaid  
31 certified mail, return receipt requested, to the teacher's or

1 principal's last known address. A return receipt showing  
2 delivery to such address within 20 days after the date of the  
3 approval of the charges shall constitute proof of service.

4 No hearing upon the charges is required unless the  
5 teacher or principal within 10 days after receiving notice  
6 requests in writing of the general superintendent that a  
7 hearing be scheduled, in which case the general  
8 superintendent shall schedule a hearing on those charges  
9 before a disinterested hearing officer on a date no less than  
10 15 nor more than 30 days after the approval of the charges.  
11 The general superintendent shall forward a copy of the notice  
12 to the State Board of Education within 5 days from the date  
13 of the approval of the charges. Within 10 days after  
14 receiving the notice of hearing, the State Board of Education  
15 shall provide the teacher or principal and the general  
16 superintendent with a list of 5 prospective, impartial  
17 hearing officers. Each person on the list must be accredited  
18 by a national arbitration organization and have had a minimum  
19 of 5 years of experience as an arbitrator in cases involving  
20 labor and employment relations matters between educational  
21 employers and educational employees or their exclusive  
22 bargaining representatives.

23 The general superintendent and the teacher or principal  
24 or their legal representatives within 3 days from receipt of  
25 the list shall alternately strike one name from the list  
26 until only one name remains. Unless waived by the teacher,  
27 the teacher or principal shall have the right to proceed  
28 first with the striking. Within 3 days of receipt of the  
29 first list provided by the State Board of Education, the  
30 general superintendent and the teacher or principal or their  
31 legal representatives shall each have the right to reject all  
32 prospective hearing officers named on the first list and to  
33 require the State Board of Education to provide a second list  
34 of 5 prospective, impartial hearing officers, none of whom

1 were named on the first list. Within 5 days after receiving  
2 this request for a second list, the State Board of Education  
3 shall provide the second list of 5 prospective, impartial  
4 hearing officers. The procedure for selecting a hearing  
5 officer from the second list shall be the same as the  
6 procedure for the first list. Each party shall promptly  
7 serve written notice on the other of any name stricken from  
8 the list. If the teacher or principal fails to do so, the  
9 general superintendent may select the hearing officer from  
10 any name remaining on the list. The teacher or principal may  
11 waive the hearing at any time prior to the appointment of the  
12 hearing officer. Notice of the selection of the hearing  
13 officer shall be given to the State Board of Education. The  
14 hearing officer shall be notified of his selection by the  
15 State Board of Education. A signed acceptance shall be  
16 filed with the State Board of Education within 5 days of  
17 receipt of notice of the selection. The State Board of  
18 Education shall notify the teacher or principal and the board  
19 of its appointment of the hearing officer. In the alternative  
20 to selecting a hearing officer from the first or second list  
21 received from the State Board of Education, the general  
22 superintendent and the teacher or principal or their legal  
23 representatives may mutually agree to select an impartial  
24 hearing officer who is not on a list received from the State  
25 Board of Education, either by direct appointment by the  
26 parties or by using procedures for the appointment of an  
27 arbitrator established by the Federal Mediation and  
28 Conciliation Service or the American Arbitration Association.  
29 The parties shall notify the State Board of Education of  
30 their intent to select a hearing officer using an alternative  
31 procedure within 3 days of receipt of a list of prospective  
32 hearing officers provided by the State Board of Education.  
33 Any person selected by the parties under this alternative  
34 procedure for the selection of a hearing officer shall have

1 the same qualifications and authority as a hearing officer  
2 selected from a list provided by the State Board of  
3 Education. The teacher or principal may waive the hearing at  
4 any time prior to the appointment of the hearing officer.  
5 The State Board of Education shall promulgate uniform  
6 standards and rules of procedure for such hearings, including  
7 reasonable rules of discovery.

8 The per diem allowance for the hearing officer shall be  
9 paid by the State Board of Education. The hearing officer  
10 shall hold a hearing and render findings of fact and a  
11 recommendation to the general superintendent. The teacher or  
12 principal has the privilege of being present at the hearing  
13 with counsel and of cross-examining witnesses and may offer  
14 evidence and witnesses and present defenses to the charges.  
15 The hearing officer may issue subpoenas requiring the  
16 attendance of witnesses and, at the request of the teacher or  
17 principal against whom a charge is made or the general  
18 superintendent, shall issue such subpoenas, but the hearing  
19 officer may limit the number of witnesses to be subpoenaed in  
20 behalf of the teacher or principal or the general  
21 superintendent to not more than 10 each. All testimony at  
22 the hearing shall be taken under oath administered by the  
23 hearing officer. The hearing officer shall cause a record of  
24 the proceedings to be kept and shall employ a competent  
25 reporter to take stenographic or stenotype notes of all the  
26 testimony. The costs of the reporter's attendance and  
27 services at the hearing shall be paid by the State Board of  
28 Education. Either party desiring a transcript of the hearing  
29 shall pay for the cost thereof.

30 Pending the hearing of the charges, the person charged  
31 may be suspended in accordance with rules prescribed by the  
32 board but such person, if acquitted, shall not suffer any  
33 loss of salary by reason of the suspension.

34 Before service of notice of charges on account of causes

1 that may be deemed to be remediable, the teacher or principal  
2 shall be given reasonable warning in writing, stating  
3 specifically the causes which, if not removed, may result in  
4 charges; however, no such written warning shall be required  
5 if the causes have been the subject of a remediation plan  
6 pursuant to Article 24A. No written warning shall be  
7 required for conduct on the part of a teacher or principal  
8 which is cruel, immoral, negligent, or criminal or which in  
9 any way causes psychological or physical harm or injury to a  
10 student as that conduct is deemed to be irremediable. No  
11 written warning shall be required for a material breach of  
12 the uniform principal performance contract as that conduct is  
13 deemed to be irremediable; provided however, that not less  
14 than 30 days before the vote of the local school council to  
15 seek the dismissal of a principal for a material breach of a  
16 uniform principal performance contract, the local school  
17 council shall specify the nature of the alleged breach in  
18 writing and provide a copy of it to the principal.

19 The hearing officer shall consider and give weight to all  
20 of the teacher's evaluations written pursuant to Article 24A.

21 The hearing officer shall within 45 days from the  
22 conclusion of the hearing report to the general  
23 superintendent findings of fact and a recommendation as to  
24 whether or not the teacher or principal shall be dismissed  
25 and shall give a copy of the report to both the teacher or  
26 principal and the general superintendent. The board, within  
27 45 days of receipt of the hearing officer's findings of fact  
28 and recommendation, shall make a decision as to whether the  
29 teacher or principal shall be dismissed from its employ. The  
30 failure of the board to strictly adhere to the timeliness  
31 contained herein shall not render it without jurisdiction to  
32 dismiss the teacher or principal. If the hearing officer  
33 fails to render a decision within 45 days, the State Board of  
34 Education shall communicate with the hearing officer to

1 determine the date that the parties can reasonably expect to  
2 receive the decision. The State Board of Education shall  
3 provide copies of all such communications to the parties. In  
4 the event the hearing officer fails without good cause to  
5 make a decision within the 45 day period, the name of such  
6 hearing officer shall be struck for a period not less than 24  
7 months from the master list of hearing officers maintained by  
8 the State Board of Education. The board shall not lose  
9 jurisdiction to discharge the teacher or principal if the  
10 hearing officer fails to render a decision within the time  
11 specified in this Section. If a hearing officer fails to  
12 render a decision within 3 months after the hearing is  
13 declared closed, the State Board of Education shall provide  
14 the parties with a new list of prospective, impartial hearing  
15 officers, with the same qualifications provided herein, one  
16 of whom shall be selected, as provided in this Section, to  
17 rehear the charges heard by the hearing officer who failed to  
18 render a decision. The parties may also select a hearing  
19 officer pursuant to the alternative procedure, as provided in  
20 this Section, to rehear the charges heard by the hearing  
21 officer who failed to render a decision. A violation of the  
22 professional standards set forth in "The Code of Professional  
23 Responsibility for Arbitrators of Labor-Management Disputes",  
24 of the National Academy of Arbitrators, the American  
25 Arbitration Association, and the Federal Mediation and  
26 Conciliation Service, or the failure of a hearing officer to  
27 render a decision within 3 months after the hearing is  
28 declared closed shall be grounds for removal of the hearing  
29 officer from the master list of hearing officers maintained  
30 by the State Board of Education. The decision of the board  
31 is final unless reviewed as provided in Section 34-85b of  
32 this Act.

33 In the event judicial review is instituted, any costs of  
34 preparing and filing the record of proceedings shall be paid

1 by the party instituting the review. If a decision of the  
2 hearing officer is adjudicated upon review or appeal in favor  
3 of the teacher or principal, then the trial court shall order  
4 reinstatement and shall determine the amount for which the  
5 board is liable including but not limited to loss of income  
6 and costs incurred therein. Nothing in this Section affects  
7 the validity of removal for cause hearings commenced prior to  
8 the effective date of this amendatory Act of 1978.

9 (Source: P.A. 89-15, eff. 5-30-95.)